 CALIFORNIA STATE BOARD OF EDUCATION   ITEM #W-14

MARCH 2004 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Duarte Unified School District** to waive *Education Code* (EC) Section 46201(d), the longer day instructional time penalty for fiscal year 2002-2003 at **Andres Duarte Elementary School** due to a shortage of 900 instructional minutes. Waiver Number 12-7-2003	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval   ☒ Approval with conditions   ☐ Denial
That the district maintain increased instructional time at Andres Duarte Elementary School from the required 36,000 minutes per year to 36,900 minutes per year (36,000 plus the 900 minutes short) for a period of two years beginning in 2003-2004 and continuing through 2004-2005, and report the increase in its yearly audits.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE has approved similar requests with conditions. EC Section 46206 authorizes waivers to be granted for fiscal penalties as a result of a shortfall in instructional time. This section of the Education Code is very prescriptive and states that a waiver may only be granted upon the condition that the school or schools in which the minutes, days, or both, were lost, maintain minutes and days of instruction equal to those lost in addition to the amount for twice the number of years that it failed to maintain the required minimum length of time for the instructional school year, minimum number of instructional days for the school year following the year, or both. The instructional time has to be made up beginning not later than the school year following the year in which the waiver was granted and continue for each succeeding school year until the condition is satisfied.

SUMMARY OF KEY ISSUES

The Duarte Unified School District requests a waiver of *Education Code* (EC) Section 46201(d), the longer day instructional time penalty, which states that thirty-four thousand minutes of instructional time must be offered at the kindergarten grade level. In the 2002-2003 school year, the district contracted with a private company to provide bus services for the school. The bus driver, unaware of the instructional time requirements, changed the schedule of his pickup and delivery to the school creating a shortage of five minutes for the kindergarten classes. The inexperienced staff at the school failed to recognize the

consequences of the continued late arrival and eventually the shortage accumulate to a total of 900 minutes for the school year.

The penalty for this error is $38,520.82. The district will begin to make up the instructional time beginning in school year 2003-2004 by increasing the instructional time at Andres Duarte Elementary School to 36,900 (36,000 plus 900).

Therefore, the department recommends approval on the condition that the district maintains increased instructional time at Andres Duarte Elementary School from the required 36,000 minutes per year to 36,900 minutes per year (36,000 plus the 900 minutes short) beginning in 2003-2004 and continuing through 2004-2005, and reports the increase in its yearly audits.

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Authority for the Waiver: 46202

Bargaining unit(s) consulted on date(s): June 5, 2003

Position of bargaining unit(s) (choose only one):
☐ Neutral   ☒ Support   ☐ Oppose

Name of bargaining unit representative(s): Nancy Washington

Local board approval date(s): January 15, 2004

Period of request: July 1, 2002 through June 30, 2003

FISCAL ANALYSIS (AS APPROPRIATE)

The repayment amount for offering less than the 1986-87 minutes per *Education Code* (EC) Section 46201(d), as required by law is: 325.52 (Affected ADA) times $4,733.45 (Base Revenue Limit) equals $1,540,832.64 (Apportionment). 900 (Number of minutes short) divided by 36,000 (Number of required minutes) equals 0.025 (Percentage). $1,540,832.64 (Apportionment) times 2.50% (Percentage) equals $38,520.82 (Penalty).

BACKGROUND INFORMATION

Waiver request forms and supporting documents are attached to this summary.